

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2144.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	May 28, 2004
DATE OF REPORT:	June 25, 2004
REQUEST FOR RECONSIDERATION:	yes/ no changes
DATE OF CLOSURE:	July 26, 2004

COMPLAINT ISSUES:

Whether Plainfield Community School Corporation and West Central Joint Services violated:

511 IAC 7-22-2 by failing to provide the parent with prior written notice before proposing to change the student's special education placement or the provision of a free appropriate public education.

511 IAC 7-27-2(d) by failing to include, in the written notice of the case conference committee (CCC) meeting, the name and title or position of other expected participants in the meeting, specifically by failing to identify the CCC meeting facilitator.

FINDINGS OF FACT:

1. The Student is fourteen years old and attends the local middle school. The Student is eligible for special education and related services as a student with a learning disability.
2. The Complainant contends that she did not receive prior written notice regarding the School's proposed change in placement for the Student's IEP. The Student had previously been receiving instruction in the special education resource room for one period out of the school day, with the rest of the Student's instruction being provided in the general education classroom. During the CCC meeting on May 20, 2004, the School proposed to eliminate the Student's time in the resource room and provide learning disability inclusion assistance in the general education classroom, effective immediately. The Complainant participated in the CCC meeting and received a copy of the Case Conference Summary/IEP. The CC Summary/IEP describes the placement as a "general education classroom with special education and related services provided outside the general education classroom 0-20% of the instructional day." The School supported this selection by stating that the Student "has been successful in the general education classroom with minimal support. Other placements would be too restrictive or not provide enough support." The case conference notes say that the Student has improved in her classes overall and has gone "full circle from the beginning of the year." Placement options rejected by the CCC include "resource room with special education and related services provided outside the general education classroom 21-60% of the instructional day" and "separate classroom in a general education school building with special education and related services provided outside the general education classroom for more than 60% of the instructional day." The IEP also includes the Student's present levels of performance in several areas (cognition, academic performance, motor skills, adaptive behavior and vocational skills, social and emotional behavior, and communication skills), according to testing conducted on February 27, 2002. Scores are given for standardized tests (the next required reevaluation is in February 2005).

3. The Complainant stated that she was offered a Notice of Procedural Safeguards, but already had a current one and declined another copy. The Notice of Procedural Safeguards advises the Complainant of the protections afforded by state and local special education laws, identifies sources for the Complainant to contact for additional information, contains an explanation of the availability of mediation and due process to resolve disagreements about a student's special education and related services, and informs the parent of the right to revoke consent and the requirements of an effective revocation.
4. The Notification of Case Conference/Annual Case Review Meeting, which the Complainant received prior to the May 20, 2004, CCC meeting, includes the names of several people who are expected to attend the meeting. It does not, however, include the names of the two facilitators (administrators from a neighboring special education cooperative) who participated at the meeting. The Director of Special Education stated that contact was made with the facilitators on the Saturday before the CCC meeting (May 15). There is no written documentation to show that the facilitators were invited, or to show when a response was received from the facilitators after contact was made. On the day of the meeting, the Complainant asked why the facilitators had not been listed as participants on the notification form. The Director explained that he had not been able to contact the facilitators before the notification was mailed and did not know if a facilitator would be available. When the facilitators said that they would leave if the Complainant did not want the CCC meeting facilitated, the Complainant said that they could stay.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the Case Conference Summary/IEP includes a description of the action proposed, an explanation of why the School proposes to take the action, a description of other actions considered and the reasons they were rejected, and a description of tests used to support the action. In addition, the Complainant had been provided with information about her procedural safeguards. The combination of these documents constitutes prior written notice. Therefore, a violation of 511 IAC 7-22-2 is not found.
2. Finding of Fact #4 indicates that the School failed to inform the Complainant that two facilitators were anticipated at the May 20, 2004, CCC meeting. Therefore, a violation of 511 IAC 7-27-2(d) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Plainfield Community School Corporation and West Central Joint Services shall:

1. provide an assurance statement to the Division that all expected participants in a CCC meeting will be listed on the notification form, and that parents will be informed when the School receives notice of additional participants after the notification is sent out. **Provide this to the Division by July 9, 2004.**